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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of

MARKHAM

Serial No.: 09/589,788

Filed: June 8, 2000

Atty. File No.: 7032-8-1

For: "BOUNCING PET TOY"

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir/Madam:

SECOND PETITION UNDER
37 C.F.R. § 1.53(e),
PETITION FOR GRANTING OF
FILING DATE AS OF JUNE 8, 2000,
AND REQUEST FOR REFUND OF
BOTH PETITION FEES

"EXPRESS MAIL" MAILING LABEL NUMBER: EL767780188
DATE OF DEPOSIT: October 23, 2001

I HEREBY CERTIFY THAT THIS PAPER IS BEING DEPOSITED
WITH THE UNITED STATES POSTAL SERVICE "EXPRESS MAIL
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INDICATED ABOVE ADDRESSED TO THE COMMISSIONER OF
PATENTS AND TRADEMARKS, WASHINGTON, DC 20231.

TYPED OR PRINTED NAME: Jennie R. Hamel

SIGNATURE: 

Applicant hereby petitions in response to a Second Notice of Incomplete Reissue Application mailed on August 23, 2001. Applicant filed the above-identified reissue application on June 8, 2001. The application was accorded a serial number and Applicant received a postcard in response to the filing. On May 24, 2001, a first Notice of Incomplete Reissue Application was mailed. The First Notice asserted that the specification was missing, and that the specification did not include at least one claim. On July 20, 2001, Applicant filed a First Petition disputing the assertions in the First Notice. A copy of the First Petition is attached hereto as Exhibit A. Applicant then received the Second Notice of Incomplete Reissue Application with a mailing date of August 23, 2001. The Second Notice is a duplicate of the First Notice, with the exception of difference in mailing date. Applicant conferred with Ms. Rawls, most recently on October 22, 2001, of the Office of Initial Patent Examination, who agreed to confer with her supervisor to determine whether the Second Notice could be withdrawn. Applicant has not yet received written confirmation that such withdrawal occurred and, thus, files this Second Petition.

By way of this Second Petition, Application requests the following relief:

- 1) that action be taken on Applicant's First Petition forthwith;
- 2) that Applicant be granted the June 8, 2001 filing date;

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- 3) that the First and Second Notices of Incomplete Reissue Application be withdrawn;
and,
- 4) a refund of the petition fees paid.

Both Notices are incorrect in asserting that the specification was not filed with the reissue application. The specification was filed with the original reissue application. The specification filed was a copy of the patent to be reissued, U.S. Patent No. 5,865,146, as is shown in the Exhibits to the First Petition. Since no changes were made to the specification, only to the claims by way of preliminary amendment, Applicant did not cut up the patent, as suggested by MPEP § 1411.

Also enclosed herein is the petition fee for \$130.00. Any underpayment of this fee may be charged to Deposit Account No. 19-1970.

A copy of the Second Notice of Incomplete Reissue Application is also enclosed herein.

In summary, applicant respectfully petitions withdrawal of the First and Second Notices of Incomplete Reissue Application, action upon the First Petition, the granting of a filing date of June 8, 2000, and refund of the petition fees.

If there are any outstanding matters which would prevent the above requested relief, the Petition Office is urged to contact the undersigned at 303-863-2982.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: 

Mollybeth R. Kocialske
Registration No. 42,754
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-9700

Date: October 23, 2001

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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PETITIONS OFFICE

In Re the Application of

MARKHAM

Serial No.: 09/589,788

Filed: June 8, 2000

Atty. File No.: 7032-8-1

For: "BOUNCING PET TOY"

PETITION IN RESPONSE TO
NOTICE OF INCOMPLETE
REISSUE APPLICATION.
PETITION FOR GRANTING OF
FILING DATE AS OF JUNE 8, 2000.
AND REQUEST FOR REFUND OF
PETITION FEE

"EXPRESS MAIL" MAILING LABEL NUMBER: EL68604331608
 DATE OF DEPOSIT: July 20, 2001

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 PATENTS AND TRADEMARKS, WASHINGTON, DC 20231.

TYPED OR PRINTED NAME: Katherine L. Goncalves

SIGNATURE: *Katherine L. Goncalves*

Assistant Commissioner for Patents
 Washington, D.C. 20231

Dear Sir/Madam:

Applicant hereby petitions in response to the Notice of Incomplete Reissue Application mailed on May 24, 2001. In the Notice, it was asserted that the specification was missing, and that the specification did not include at least one claim. This Notice is incorrect. The specification was filed with the original reissue application. Enclosed herein at Exhibit A is a copy of the postcard, stamped as being received by the Patent Office on June 8, 2000. The specification filed was a copy of the patent to be reissued, U.S. Patent No. 5,865,146. Also enclosed at Exhibit B is the applicant's transmittal letter (two pages) signed by Ms. Ginny Sawatzke on June 8, 2000, certifying that a copy of U.S. Patent No. 5,865,146 as the specification was filed. Finally, enclosed at Exhibit C is a copy of the PTO Form SB/50 (two pages) also certifying that a photocopy of the U.S. Patent No. 5,865,146 was included with the original filing of the application.

According to MPEP §1410 (Content of Reissue Application), the specification of the reissue application is the copy of the patent for which reissue is requested that is submitted by applicant as part of the initial application papers. As stated above, a copy of the patent for which reissue is requested was filed as the specification. MPEP §1411 states that cut-up soft copies of the original patent, with only a single column of the printed patent securely mounted on a separate sheet of paper,

should be used in preparing the reissue specification and claims to be filed. Applicant did not submit a cut-up copy of the original patent; rather, a copy of the original patent which was not cut up was submitted. Therefore, applicant's only potential error with regard to the filing of the specification of this reissue application was not to place the specification in the cut-up form.

Applicant's attorney contacted Mr. Tim Williams on July 19, 2001 at the Initial Patent Examination Division to request that the Initial Patent Examination Division pull this re-application file to see if, in fact, a copy of the patent was in the file. Mr. Williams indicated that he would order the file from the Central Files.

Also enclosed herein is the petition fee for \$130.00. Any underpayment of this fee may be charged to Deposit Account No. 19-1970.

A copy of the Notice of Incomplete Reissue Application is also enclosed herein.

In summary, applicant respectfully petitions withdrawal of the Notice of Incomplete Reissue Application, granting of a filing date of June 8, 2000, and refund of the petition fee.

If there are any outstanding matters which would prevent the above requested relief, the Petition Office is urged to contact the undersigned at 303-863-2982.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: 

Brent P. Johnson
Registration No. 38,031
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-9700

Date: 7/20/01

FROM

(TUE) 10.23' 01 15:16/ST 15:14/NO. 3561683307 P 6

RE: U.S. Reissue Patent Application Corresponding to U.S. Patent
No. 5,865,146 Entitled "Bouncing Pet Toy"; Docket No. RE97.18

Enclosed herewith for filing:

jc836 U.S. PTO

09/589788



- (x) Express Mailing Form No. EL245411704US
- (x) Reissue Patent Application Transmittal (2 pages) 06/08/00
- (x) Reissue Application Fee Transmittal Form (1 original and 1 copy)
- (x) Preliminary Amendment
- (x) Four (4) formal drawing sheets
- (x) Reissue Application Declaration by the Inventor
- (x) Copy of U.S. Patent No. 5,865,146
- (x) Reissue Application by the Assignee, Offer to Surrender Patent
- (x) Statement Under 37 CFR 3.73(b)
- (x) Copy of Assignment
- (x) Consent of Assignee
- (x) Submission to Information Disclosure Citation
- (x) Information Disclosure Citation in an Application w/copies of patents cited
- (x) Check for \$423.00
- (x) Return postcard

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Exhibit A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re The Reissue Application of)
Joseph P. Markham)
Reissue Application of)
Patent No. 5,865,146)
Issued: February 2, 1999)
For: "Bouncing Pet Toy")

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PETITIONS OFFICE

Assistant Commissioner for Patents
Washington, D.C. 20231

"Express Mail" Mailing Label No. EL245411704US

Date of Deposit: June 8, 2000

I hereby certify that the following:

- Reissue Patent Application Transmittal (2 pages)
- Reissue Application Fee Transmittal Form (1 original and 1 copy)
- Preliminary Amendment
- Four (4) formal drawing sheets
- Reissue Application Declaration by Inventor with copy of U.S.
Patent No. 5,865,146 as specification
- Reissue Application By the Assignee Offer to Surrender Patent
- Statement Under 37 CFR 3.73(b) with copy of Assignment
attached
- Consent of Assignee
- Submission of Information Disclosure Citation
- Copies of references cited
- Check for \$423.00 for the filing fees
- Return postcard

are being deposited with the United States Postal Service "Express Mail
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Exhibit B

FROM

(TUE) 10. 23' 01 15:17/ST 15:14/NO. 3561683307 P 8

2

above and are addressed to BOX REISSUE, Assistant Commissioner For
Patents, Washington, DC 20231.

Virginia A. Sawatzke

Virginia A. Sawatzke
8480 East Orchard Road, Suite 5600
Englewood, CO 80111
(303) 689-9100

Date: June 8, 2000

REISSUE PATENT APPLICATION TRANSMITTAL

Page 2

ACCOMPANYING APPLICATION PARTS:

- Submission of Information Disclosure Citation
- Photocopy of U.S. Patent No. 5,865,146
- Reissue Application Declaration by the Inventor
- Four (4) drawing sheets
- Check for \$423.00

FROM

(TUE) 10.23'01 15:18/ST 15:14/NO. 3561683307 P 11

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PETITIONS OFFICE

SHERIDAN ROSS

PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELORS AT LAW

1000 BROADWAY, SUITE 1200

DENVER, CO 80202

VELO FARGO BANK, WESTERN

1500 15TH AVENUE

DENVER, CO 80202

2020 15TH AVENUE

DENVER, CO 80202

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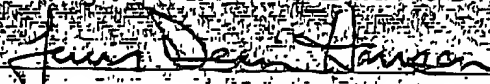
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⑈075909⑈ ⑆102000076⑆1010856710⑈

SHERIDAN ROSS

VENDOR NO.

VENDOR NAME

75909

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WASHINGTON, D.C. 20231
[WWW.USPTO.GOV](http://www.uspto.gov)

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/589.788	06/08/2000	Joseph P. Markham	RE97-18

CONFIRMATION NO. 1769

FORMALITIES LETTER

OC000000008112052

**Gary D Fields
Fields & Johnson P C
8480 East Orchard Road
Suite 5600
Englewood, CO 80111**

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Date Mailed: 05/24/2001

NOTICE OF INCOMPLETE REISSUE APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above identified application papers for the reason(s) indicated below.

All of the items noted below and a newly executed oath or declaration covering the items must be submitted within TWO MONTHS of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)).

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(h)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

- The specification is missing.
 - The specification does not include at least one claim.
- A complete specification as prescribed by 35 U.S.C. 112 is required.*

A copy of this notice MUST be returned with the reply.

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Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

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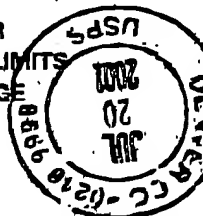
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Initial: kg

Date 7/20/01 7/20/01

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Application Docket No.: 7032-8-1

Applicant: BOUNCE, INC.

Title or Mark: "BOUNCING PET TOY"

Serial/Reg. No.: 09/569,788

Filed/Issued Date: June 8, 2000

☒ Certificate of Mailing

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LIST ALL DOCUMENTS BEING SENT TO PATENT OFFICE:

Petition in Response to Notice of Incomplete Reissue Application, Petition for Granting of Filing Date, as of June 8, 2000, and Request for Refund of Petition, Exhibits A-C, copy of Notice of Incomplete Reissue Application



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____ No. of Pages in Claims
____ No. of Sheets of Drawings ngs

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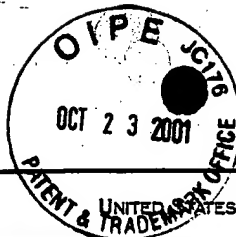
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
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Gary D Fields
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Date Mailed: 05/24/2001

NOTICE OF INCOMPLETE REISSUE APPLICATION

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- The specification is missing.
- The specification does not include at least one claim.
A complete specification as prescribed by 35 U.S.C. 112 is required.

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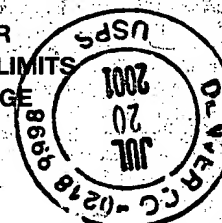
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DENVER CO 80202-5145

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FOR PATENTS
WASHINGTON DC 20231-9999

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Date 7/20/01 7/20/01

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Application Docket No.: 7032-8-1

Applicant: BOUNCE, INC.

Title or Mark: "BOUNCING PET TOY"

Serial/Reg. No.: 09/589,788

Filed/Issued Date: June 8, 2000

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☒ Check for \$130.00

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